Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Year 2000 Biennial Regulatory Review -	)	WT Docket No. 01-108
Amendment of Part 22 of the Commission's Rules	)	
to Modify or Eliminate Outdated Rules Affecting	)	
the Cellular Radiotelephone Service and other	)	
Commercial Mobile Radio Services	)	

REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.

Pursuant to the Commission's Notice of Proposed Rulemaking, AT&T Wireless Services, Inc. ("AWS") hereby submits its reply comments in the above captioned proceeding.[1/]

INTRODUCTION

AWS, like most other commenters in this proceeding, fully supports the Commission's efforts to remove outdated and unnecessary regulations for Part 22 licensees, including reducing the regulatory disparities among different types of commercial mobile radio service ("CMRS") providers. To accomplish these objectives, the Commission should adopt the proposal of various commenters to eliminate immediately the unnecessary and discriminatory cellular analog requirement. In addition, AWS supports the proposals offered by Western Wireless and Cingular to streamline the licensing process for unserved areas. Finally, to promote regulatory parity and ease administrative burdens, AWS urges the Commission to modify its cellular partitioning rules to permit cellular carriers to assign portions of their service areas using the same criteria as personal communications service ("PCS") licensees.

1/ In the Matter of Year 2000 Biennial Review - Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, Notice of Proposed Rulemaking, WT Docket No. 01-108 (rel. May 17, 2001) ("Notice").

I. RETENTION OF THE ANALOG RULE IS NOT NECESSARY TO PROTECT INDIVIDUALS WITH DISABILITIES

As a number of commenters explain, rather than promote the public interest, the rule that requires cellular carriers to retain analog capability is burdensome and undermines spectrum efficiency. Retaining the analog requirement, as Cingular and Ericsson argue, adversely impacts consumers because carriers have no incentive to deploy digital technologies or upgrade their networks.[2/] Even the United States Cellular Corporation, a provider serving mostly rural areas, agrees that the analog rule constrains its ability to offer "all digital service" to its subscribers.[3/] In addition, maintaining the cellular analog requirement creates unnecessary and unfair regulatory disparities between cellular carriers and other CMRS providers that are not subject to such a requirement.[4/]

Contrary to the contentions of several commenters, the cellular analog rule is not necessary to ensure that wireless services and equipment remain accessible to persons with disabilities. Under Section 255 of the Communications Act, wireless carriers must offer services that are "accessible to and usable by individuals with disabilities" and this requirement exists regardless of the analog mandate.[5/] Currently, digital wireless systems are not compatible with TTYs and other types of hearing aid technologies but, as AWS points out, until this compatibility issue is resolved, cellular carriers will continue to offer analog service to accommodate those with hearing disabilities in order to meet the requirements of Section 255. Indeed, for this reason, AG Bell, an organization comprised of hearing impaired individuals, does not oppose

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2/ See Cingular Comments at 2-3; Ericsson Comments at 3-4.

3/ See United States Cellular Corporation Comments at 3.

4/ See Cingular Comments at 4.

5/ 47 U.S.C. § 255(c).

elimination of the cellular analog rule as long as TTY-compatibility is available.[6/] As Ericsson and the Telecommunications Industry Association correctly emphasize, cellular carriers are legally obligated to provide service to individuals with disabilities and will continue to do so whether or not the Commission retains the analog requirement.[7/]

II. SIMPLIFYING THE COMMISSION'S UNSERVED AREA RULES WOULD REDUCE ADMINISTRATIVE BURDENS AND PROMOTE REGULATORY PARITY

In its initial comments, AWS urged the Commission to eliminate filing requirements for unserved areas that are less than 50 square miles because the current unserved area licensing process is time consuming, expensive, and completely unnecessary.[8/] Accordingly, AWS supports the similar proposals offered by Western Wireless and Cingular.[9/]

In addition, AWS agrees with Western Wireless that the Commission should also simplify the licensing process for unserved areas greater than 50 square miles by moving to a geographic licensing scheme.[10/] As Western Wireless explains, the Commission's rules require cellular licensees to submit applications for larger unserved areas on a site-specific basis. Then, the Commission must approve each application, which can take 90 days or more. This complex and highly inefficient scheme could easily be replaced, as Western Wireless suggests, with the same licensing process the Commission uses for PCS and specialized mobile radio ("SMR") applicants.[11/] Specifically, under Western Wireless's proposal, remaining unserved areas licenses would be auctioned based on geographic markets. This would permit all mutually

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6/ See AG Bell Comments at 5.

7/ See Ericsson Comments at 5; Telecommunications Industry Association Comments at 5.

8/ See AWS Comments at 5-6.

9/ See Western Wireless Comments at 7; Cingular Comments at 24.

10/ See Western Wireless Comments at 6.

11/ See id. at 5.

exclusive applications for unserved areas within the same geographic area to be processed at one time, significantly reducing the administrative burden associated with the existing regime and giving cellular carriers the flexibility and incentive to offer new and innovative services in rural areas.[12/]

III. MODIFYING THE CELLULAR PARTITIONING RULES WOULD CREATE REGULATORY UNIFORMITY BETWEEN CELLULAR AND PCS

Under the Commission's current rules, cellular carriers are permitted to partition any portion of their service areas during the five-year buildout period.[13/] After the buildout period, however, a cellular licensee may only partition a portion of its cellular geographic service area ("CGSA"),[14/] which is defined by the aggregate of the service area boundaries of all the cell sites in the system.[15/] While AWS does not object to the Commission's use of the CGSA to delineate the partitionable service area, this rule effectively requires cellular carriers that want to divide their territories to do so on a site-by-site basis. Not only does this partitioning method create disparity between cellular and PCS providers,[16/] it results in unnecessary administrative difficulties and expense for both cellular carriers and the Commission.

The Commission's rules permit PCS providers to assign geographic portions of their service areas to other carriers along geopolitical boundaries, such as county lines, or based on geographic coordinates designated by the assignor.[17/] Cellular partitioning, however, must occur

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12/ See id. at 7.

13/ 47 C.F.R. §§ 22.947(b), 22.948(b).

14/ 47 C.F.R. §§ 22.947(b), 22.948(b).

15/ 47 C.F.R. § 22.911(a).

16/ In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees; Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers, 11 FCC Rcd 21831 ¶ 24 (1996) ("PCS Partitioning Order").

17/ 47 C.F.R. § 24.104(a).

along the service area boundaries of individual cell sites. This per-site partitioning is difficult to negotiate, can result in the inadvertent separation of communities, and often fails to accommodate the objectives of either the buyer or the seller. Moreover, it has become especially problematic today because the Commission has eliminated the requirement that cellular licensees notify the Commission when they modify internal sites within their cellular systems.[18/] Indeed, the Commission has purged all internal site information from its Universal Licensing System ("ULS").[19/] Accordingly, if a cellular licensee wishes to partition a portion of its CGSA, it must first calculate the service area boundaries of all internal cell sites, create contour maps, file an FCC Form 601 minor modification permissive change notification, pay a filing fee, and wait for the notification to be processed through the ULS system before a cellular partial assignment application can be filed.

In its most recent order on partitioning for cellular licensees, the Commission appeared to contemplate that both PCS and cellular providers would be able to partition their service areas in the same way.[20/] In particular, although the Commission stated that it would retain its existing rules on cellular partitioning, it adopted the same definition of partitioning that it used in the PCS

[18/] In the Matter of Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services; Amendment of Part 22 of the Commission's Rules to Delete Section 22.119 and Permit the Concurrent Use of Transmitters in Common Carrier and Non-common Carrier Service; Amendment of Part 22 of the Commission's Rules Pertaining to Power Limits for Paging Stations Operating in the 931 MHz Band in the Public Land Mobile Service, 9 FCC Rcd 6513 ¶¶ 22-25 (1994) ("Part 22 Rewrite Order").

[19/] In the Matter of Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, 14 FCC Rcd 9851 ¶ 8, n.10 (1999).

[20/] In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees; Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers, 15 FCC Rcd 10432 (2000) ("Cellular Partitioning Order"). The Commission also permitted cellular licensees to disaggregate their spectrum using the same methods as other CMRS providers in order to promote regulatory symmetry. See id. at ¶ 6.

partitioning order.[21/] Nevertheless, the Commission has not amended Section 22.947(b) and cellular carriers thus remain subject to the site-by-site requirement. Given the availability of a simple alternative partitioning method, AWS requests that the Commission modify its rules to permit cellular carriers to partition their service areas in the same manner as PCS providers.

CONCLUSION

For the foregoing reasons, AWS supports modification of the Part 22 rules as proposed in the Notice, and specifically requests that the Commission eliminate the cellular analog rule. In addition, the Commission should modify its unserved area licensing process and its cellular partitioning rules to reduce administrative burdens and promote regulatory parity among all wireless services.

Respectfully submitted,

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[21/] Cellular Partitioning Order at ¶ 1, n.2 ("Partitioning is the assignment of geographic portions of a license along geopolitical boundaries or other boundaries.").

CERTIFICATE OF SERVICE

I, Angela Collins, hereby certify that on this 1st day of August 2001, copies of the foregoing Reply Comments of AT&T Wireless Services, Inc. were sent via hand delivery to the following:

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